

[25th November 1948]

(6) THE MADRAS AGRICULTURISTS' RELIEF (AMENDMENT) BILL, 1948
(L.A. BILL No. 4 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—
‘ that the Madras Agriculturists’ Relief (Amendment) Bill, 1948 (L.A. Bill No. 4 of 1948), as passed by the Legislative Assembly, be taken into consideration at once.’”

“ Sir, I introduced this Bill originally at the first stage, in this House, when I requested this House to concur with the Legislative Assembly, in the matter of the appointment of a Joint Select Committee to report on this Bill. The original Agriculturists’ Relief Act was passed in 1938, with the consent of the Governor and published in the Gazette in that year. Thereafter, various defects in the working of the Act were pointed out by courts, and particularly the High Court suggested various amendments to the Act. And these amendments were in their making during the Advisers’ regime, which made some memoranda or suggestions for certain amendments, but deferred them during the war, saying that it is a matter to be taken up by a popular Ministry. Then, after the Congress Government came to office, my hon. Friend, Mr. P. S. Kumaraswami Raja, took up the question, and collected data that were necessary for making the necessary amendments in the original Act. So, I do not claim complete originality for all the amendments that are before you now. It is a legacy, not a bad legacy as was suggested by my hon. Friend, Mr. Karanth, in the Lower House, but really a good legacy. The object of the original Act was to reduce the heavy burden of debts which before the passing thereof, remained at about Rs. 263 to Rs. 267 crores. Even after the passing of that Act, the amount is still stationary at nearly the same level, and we have been able to reduce it by only about Rs. 9 to Rs. 10 crores. Even under the Bill now before you, I do not think much could be done by way of relief to the agriculturist. What is sought to be done in this Bill is only to remove some ambiguities that were pointed out in the original Bill by the courts. Some other doubts arose later, and also certain decisions were made, which showed that there was something against the intention of the Legislature, in the working of the Act. For, the courts could not but consider the Act, as it stood, and according to their own light. So, all these amendments were felt to be a necessity, to carry out the original intention of the Legislature. All the amendments except the amendment which seeks to insert a new section 9-A, relate to debts which were in existence prior to 1938, and still subsist, and not to any debts which were created subsequent to 1938. Of course, in all legislations, involving dates, there will be some hardship to a few persons who have lent money, but our attempt has been to reduce the hardship as much as possible, and give some relief to agricultural debtors.

“ Originally, the cases of the usufructuary mortgagees who were in possession of the property, were beyond the scope of the Act, when no rate of interest had been stipulated. The present amendment makes it possible to bring these mortgages also within the purview of this Bill. And the Joint Select Committee sat for

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days together on the subject, and arrived at the present amendment finally. Somehow, in the Assembly, this clause was debated upon, for some days. So, the Bill has been so sufficiently well thrashed that it has become so good that this House can easily give its assent to this Bill. Moreover, no hon. Member of this House has even thought of an amendment to any of the suggestions made by the Legislative Assembly. So, I need not labour upon the point any further than point out merely the salient features of the Bill, as it emerged from the Select Committee.

"The original Bill with notes on clauses and an annexure giving a comparative view of the existing sections and the sections embodying the proposed amendments and the report of the Select Committee have been circulated to the Members. Therefore, I do not want to traverse the whole ground once again. I will only refer to the salient changes made by the Joint Select Committee. 12-30 p.m.

"Section 3 of the Act.—(1) According to the existing proviso (A) to section 3 (ii) (d) of the Act, a person shall not be deemed to be an agriculturist if he has in *either of the two financial years* ending 31st March 1938 been assessed to income-tax. With reference to the suggestion of the Select Committee, an agriculturist who has been assessed to income-tax in *both the financial years* should be exempted from the provisions of the Act. The object of the Select Committee was to widen the scope of the Act so as to give relief to more agriculturist debtors.

"(2) Under proviso (B) to section 3 (ii) (d) of the Act, a person who has *within the two years* immediately preceding 1st October 1937 been assessed to profession tax on a half-yearly income of more than Rs. 300 (this limit has been raised to Rs. 600) shall not be deemed to be an agriculturist. According to the suggestion of the Select Committee, proviso (B) should apply only to a person who has been assessed to profession tax *in all the four half-years* immediately preceding 1st October 1937. If an agriculturist had been assessed to profession tax even for one half-year within the two years, he was not deemed to be an agriculturist and therefore he did not get the relief. The Select Committee has provided that, unless a person has been assessed to profession tax in all the four half-years, he will be deemed to be an agriculturist and therefore will get relief.

"(3) Under proviso (C) to section 3 (ii) (d) of the Act, a person who has *within the two years* immediately preceding the 1st October 1937 been assessed to property or house tax shall not be deemed to be an agriculturist. The Select Committee decided that the proviso should apply only to a person who has *in all the four half-years* immediately preceding the 31st October 1937 been assessed to property or house tax.

"(4) A new definition of interest has been introduced in the original Bill. According to this definition, payments in kind made in excess of the borrowing will also come within its scope. An Explanation has also been inserted that in the case of usufructuary mortgages the rent and profits will constitute the interest, and in case where the property is leased back to the mortgagor the

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rent due to the usufructuary mortgagee under the lease will be regarded as the interest on the mortgage debt. This explanation regarding usufructuary mortgages has been omitted by the Select Committee, as it has been embodied in section 9-A.

"Sir, the necessity for it arose in this way. There were many cases of usufructuary mortgages where no interest was stipulated. The High Court held that the rent of the land was not interest under the Transfer of Property Act. The object of the Act that where interest is provided, it should apply was defeated because of the interpretation that rent did not constitute interest when a land was mortgaged. The object of the amendment is to give effect to the intention of the Legislature.

"*Clause 6 (new section 9-A).*—Sir, the existing section 10 (2) (i) of the Act exempts usufructuary mortgages where no rate of interest is stipulated from the operation of the provisions of sections 8 and 9 of the Act relating to the scaling down of debts. I was a member of the Select Committee which considered the Bill of 1938. The Select Committee then excluded usufructuary mortgages where no rate of interest was fixed on the ground that it was most difficult, if not impossible to find out the amount of interest that has been paid to the mortgagee by his being in possession of the property. It was difficult to apply the principle of *damdupat* in those cases. To avoid the difficulty of calculation in the case of properties which have been mortgaged for thirty or forty years, usufructuary mortgages were left out of the Act of 1938. Now the Joint Select Committee has decided that if a usufructuary mortgage has been in existence for thirty years, the mortgage should be deemed to be fully satisfied and discharged. The value of the income from immovable property especially during the last six or seven years has been so high that not only the principal would have been paid twice over but half a dozen times over in the course of the last 25 years when the mortgagee has been in possession of the property.

"The Select Committee discussed the matter and has changed the original proposal almost beyond recognition by hedging it with a number of provisos. Usufructuary mortgages where no interest was provided were considered to be safe investments and after the Act of 1938 several transactions have taken place in the belief that they are safe transactions. Several partitions have taken place in families on that basis and shares set apart consist of usufructuary mortgages. If the rule of thirty years is applied to these things, these people will be penalized. To obviate such difficulties, we have made the necessary provisos hedging in this provision. Usufructuary mortgages in respect of property in South Kanara and certain taluks of North Malabar have been exempted from the above provisions.

"Sir, I have been receiving a lot of abuse as well as compliments for exempting the usufructuary mortgages in respect of property situated in the South Kanara district and in certain taluks of the Malabar district. The criticism has been that I and the Select Committee were ignorant of, and absolutely callous to, the

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condition of agriculturist debtors in those parts. Very recently, the Bar Associations in Mangalore and Kasaragod have written to me letters in which they say that in providing for the exemption, the Select Committee has done the wisest thing.

"The position is this. If the Bill is made applicable to South Kanara district and the taluks of Malabar, the party to be benefited will be the landlords and not the tenants. There is a sort of tenancy there, particularly in North Malabar, which has been described by the High Court as usufructuary mortgages. It is not the kanam tenancy of South Malabar. The tenant advances large amounts to the landlord and the landlord gives the property to the tenant as a sort of tenancy. If the debt is wiped off, the benefit will go to the landlord and not to the tenant. There may be a few cases both in South Kanara and North Malabar of usufructuary mortgages which are not exactly like this tenancy. When we consider the question as a whole and see who will derive greater benefit, we find that it is the landlords. The tenants will stand to lose, but the intention of the Act is to protect the tenant. So the Select Committee thought that by providing for exemption they will be protecting a large percentage of agriculturists, even though a few agriculturists may be deprived of the relief afforded by the Act.

"Besides, according to the law of inheritance prevailing in Malabar and South Kanara, which is known as Marumakkattayam law and Aliyasantana law, respectively, the sale of property could not be effected by the manager without the consent of all the members of the family. So the managers of families used to raise money on property by means of what is known as *arwar* which does not require the consent of all the members. More harm than good will be done to the agriculturist debtors of Malabar and South Kanara by bringing those portions within the scope of this Bill. That is the reason why the Select Committee provided for the exemption.

"Exemption is also given to the property where during the period after 30th September 1937 and before 30th September 1947 the equity of redemption has devolved either wholly or in part on a person or through a transfer *inter vivos* either from the original mortgagor or from a person deriving title from or through such mortgagor otherwise than by a transfer *inter vivos*. Exemption is also provided for in the case where the equity of redemption in the property belonged to or devolved on two or more persons and where any one of them has redeemed the entire mortgage during the period between 30th September 1937 and 30th September 1947, and also in certain other cases.

"Clause 8 of the Bill—Section 13.—The amendments suggested by the Select Committee are consequential on the amendments suggested to provisos (B) and (C) to section 3 (ii) (d).

"Clause 12 of the Bill—New section 23-A.—In order to give the full benefits of the amendments made in favour of agriculturist debtors by the amending Act it is considered necessary to have a

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provision on the lines of section 23 of the existing Act for the setting aside of sales or foreclosures of immovable property shortly ordered before the Bill becomes law. According to the original Bill the benefit will apply only in cases of the sales or foreclosures before the commencement of the Amendment Act and which had not been confirmed before such commencement or ninety days had not elapsed from the confirmation of the sale or from the foreclosure at such commencement. The Select Committee has, however, suggested the application of the provisions in the section to sales or foreclosures effected *on or after the 30th September 1947*, because that was the date on which the Bill was published in the *Fort St. George Gazette*.

“ *Clause 14 of the Bill—New section 24-A.*—According to the Bill the new section 24-A enables the court to *reject in toto* claims based on documents which have been executed with a view to evade the provisions of the Act. The Select Committee has, however, suggested that the court should *disallow the costs only*.

“ *Clause 16 of the Bill.*—According to sub-clause (ii) of clause 11 of the original Bill the proposed amendment should apply to, among others, all suits and proceedings in which the decree or order passed has *not been executed in full* before the commencement of the Amendment Act. The Select Committee has suggested that the amendments should also apply to all suits and proceedings in which the decree or order passed has *not been satisfied in full*.

“ Sir, these are the only amendments made by the Select Committee. They are in fact only attempts made by the Select Committee to reduce the hardships as much as possible to the agriculturists.

“ There are not very many changes and I do not think that much objection will be taken by this House. My hon. Friend, Mr. Govindachari, suggested certain amendments which will certainly widen the scope of the Bill in favour of the agriculturists. I had great difficulty in the other House even with regard to the limited scope of the Bill. Though I would like to make the scope wider as suggested by him, I am afraid, it will not be possible to accept the amendments suggested by him and increase the scope of the Act. The Bill has been before the House for a long time. I would request the House that it may be taken into consideration.”

12-45
p.m.

MR. PRESIDENT:—“ Just one point. I suppose, before section 9-A, relating to usufructuary mortgage is made to apply, you must be an agriculturist.”

* THE HON. SRI K. MADHAVA MENON:—“ Yes, Sir.”

MR. PRESIDENT:—“ In the case of usufructuary mortgages pure and simple usually there is no time fixed for redemption.”

* THE HON. SRI K. MADHAVA MENON:—“ It is only in Malabar and South Kanara that a time is fixed.”

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MR. PRESIDENT :—“ But according to the Limitation Act, sixty years is the period fixed, and beyond that there can be no redemption.”

* THE HON. SRI K. MADHAVA MENON :—“ Of course there is no remedy for the mortgagor; because the claim will be barred by limitation.”

MR. PRESIDENT :—“ I just want to know whether Government's attention was drawn to this point and what their idea was in this connexion.”

* THE HON. SRI K. MADHAVA MENON :—“ We had to consider that point specifically because the hon. Mr. Bhashyam moved an amendment that instead of thirty, fifty years be substituted.”

MR. PRESIDENT :—“ Then the remedy for redemption is lost. There are certain cases where villages are put in possession of another man. A puts B in possession under these conditions : you will enjoy the village for a period of 120 years in full discharge of both principal and interest. At the end of 120 years, give it back free from encumbrances.”

* THE HON. SRI K. MADHAVA MENON :—“ That is a common thing in certain portions of the Tamil Nad and Malabar also; they are called ‘ottbi’. The property is given in lieu of interest and also portions of the principal. After thirty years, if principal and interest are paid, it will go back; but automatically at the end of 120 years, the property will revert back to the mortgagor. The idea of the Government is that such mortgages will certainly come under section 9-A and become discharged. The expression ‘in spite of a contract to the contrary’ is not in section 9-A. Whether that will make a contract get out of the provisions of the Act, I cannot say now; that was not my intention anyhow.”

MR. PRESIDENT :—“ Have you defined ‘usufructuary mortgage’ here?”

* THE HON. SRI K. MADHAVA MENON :—“ Yes.”

MR. PRESIDENT :—“ I find it is not defined; the words ‘usufructuary mortgage’ are not used in the Act at all. The words used are ‘Where the mortgagee is in possession of the property’ both in the original Act and also here. Very well; we shall leave it to the courts and the lawyers.”

“ The question now is—

‘that the Bill further to amend the Madras Agriculturists' Relief Act, 1938, as passed by the Assembly (Bill No. 4 of 1948) be taken into consideration at once’.

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* THE HON. SRI K. MADHAVA MENON:—“ Let me point out, Sir, at page 4, bottom, in the explanation to section 9-A, it is stated :

“ *“ Usufructuary mortgage ” in this section means any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee.* ”

SRI K. NATARAJAN:—“ I would draw your attention, Sir, to the Bill as amended by the Select Committee which was circulated to us. In clause 2, sub-clause (iii), this is what you find :

‘ (iii) in the same clause, for proviso (d), the following proviso shall be substituted, namely :—

(D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof, whether separately registered or not, in respect of which estate, share or portion any sum exceeding five hundred rupees is payable as peshkash, or any sum exceeding one hundred rupees is payable under one or more of the following heads, namely, quit-rent, jodi, kattubadi, poruppu or other due of a like nature, or is a jammi . . . etc.’

The Estates Land Act has been repealed to a very great extent and the Bill has been passed into law just now. I want to know whether this clause must not be properly modified to suit it. Under the Act as passed, many estates have gone and no question of peshkash arises in their case.”

MR. PRESIDENT:—“ Do you think it is necessary that the Estates Land Act must be in force? ”

SRI K. NATARAJAN:—“ It is not in that view I say it. The effect of the Act as now passed is to retain what are called the 1936 inams. In those cases, quit-rent may be a term which is not obsolete. Similarly, jodi is a term which is not obsolete; but so far as estates which have been abolished are concerned, those terms will be obsolete. In section 3 (ii) of the original Act, ‘ agriculturist ’ is defined as a person who (a), (b), (c), (d) . . . with these provisos :

‘ Provided, that a person shall not be deemed to be an agriculturist if he—

(D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof in respect of which estate, share or portion any sum exceeding Rs. 500 is paid as peshkash or any sum exceeding Rs. 100 is paid as quit-rent, jodi, kattubadi, poruppu or the like, etc.’

So, such a person will be exempted. Now, we have abolished a large category of such people, and who all remain are the persons holding inams under what may be called the 1936 inams. In the case of other ryotwari landholders, assessment is imposed; and so

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in the case of these people, there must be some assessment hereafter as a consequence of the new Act. First of all, it has got to be notified and then assessment is to be imposed. Therefore, I suggest some alteration has to be made in this Bill in order to suit the position which has arisen as a result of the other Bill being passed to-day. This clause may, therefore, remain as it is, or it may be suitably amended in the course of a fortnight or so, subject to the other Act being sanctioned by the higher authorities. This Bill may lie over till that time. It is a patent defect, although it is not a serious objection. Having made the suggestion, I leave it to the Hon. Minister who is in charge to consider the suggestion, and find out what suitable amendment should be made. This 'peshkash' occurs everywhere."

MR. PRESIDENT :—" But the new Act now passed does not become law until notification is made; it does not apply to a particular estate until notification is made. And till then, all these things are supposed to be there."

SRI K. NATARAJAN :—" If this Bill is passed in the form in which it has come from the Assembly, it may not be quite in order in this sense. We have not taken cognizance of the Act that has been passed to-day. There are certain enactments which say 'in spite of this law or any other law which may alter, cancel or modify, . . . etc.' and they provide for such alterations to be made. There is no such provision here. It is not as if this Bill should be passed to-day; it may wait for even two weeks until a logical amendment can be framed and a good Bill is presented before this House. The Bill need not be first passed in the Legislative Assembly; it may be introduced in the Council here and afterwards the Assembly may accept it."

" Secondly, Sir, so far as usufructuary mortgages are concerned, I was not able to understand. Mr. Madhava Menon said that no term is fixed in usufructuary mortgages; I do not know if that is so in Malabar; but in Tamil Nad, it is called 'otthi'. In such cases, the wording used to be 'the interest being equivalent to the income from the property.' And even there, option is given to the mortgagor to pay the amount at the end of two, five or six years as the case may be. Where the sum is large, they put in a longer period and where the sum is small, they fix a smaller period. And sixty years will be the period fixed for redemption."

MR. PRESIDENT :—" But under the Transfer of Property Act in usufructuary mortgages pure and simple no stipulation for repayment is made. Whatever it is, my point is: suppose a man has been in possession for sixty years and the right of redemption is gone, what will happen?"

SRI K. NATARAJAN :—" There is no chance of redemption of the property. The person will become the absolute owner of the property. Such cases also must be considered by the Hon. Minister. The President made a reference to certain mortgages. They are

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called *arakattu* mortgages in the Tanjore district and in their case, both the interest and a portion of the capital are reduced by enjoyment of the property."

1 p.m. MR. PRESIDENT :—" Such detailed stipulations may be there or they may say the total amount due is so much. They may enjoy the property for thirty years in lieu of both the capital and the interest. At the end of that period, the mortgagor will be entitled to get back the property."

SRI K. NATARAJAN :—" If both the principal and the interest are wiped out then the mortgagor will be entitled to get back the property."

MR. PRESIDENT :—" What I am saying is, the period fixed was 100 years. The man is in possession for fifty years. The present Bill which we are going to pass says that if he is in possession of the property for thirty years, the property must be given back to him. Does the provision apply to cases where it is stipulated that a man must be in possession of the property for 100 years so that the principal and the interest can be wiped out?"

SRI K. NATARAJAN :—" Sir, if this Bill is passed, it would seriously interfere with all such mortgages."

MR. PRESIDENT :—" Will the present Bill apply?"

SRI K. NATARAJAN :—" Sir, the Bill as it is will apply to such cases, and it will be a serious thing for the Hon. Minister to consider them."

" As regards the period of thirty years, I must say that originally it was 25 years. It was extended to thirty years by the Select Committee and the Hon. Minister has been pleased to adopt it. There is one other thing which is to be considered in that connexion, viz., the date 1st October 1937 when the Agriculturists' Relief Act came into existence and whether it should be taken as the starting point. Both under sections 8 and 10 of the Agriculturists' Act, certain calculations have been made. Now, suppose after 1st October 1937 an usufructuary mortgage is created, what are you going to do with it? There is that lacuna."

MR. PRESIDENT :—" I do not think it will apply to such cases which arose after 1st October 1937."

SRI K. NATARAJAN :—" There is no such provision, Sir."

MR. PRESIDENT :—" It is in the old Act."

SRI K. NATARAJAN :—" That is not there."

MR. PRESIDENT :—" What I am saying is that if you remove that clause in the old Act, then it will apply to usufructuary mortgages."

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SRI K. NATARAJAN :—“ Sir, if that clause is removed, the present Bill will serve no purpose. Suppose a usufructuary mortgage is created after 1st October 1937. What are you going to do with it? To what extent it is going to affect it? What provision you have made for it? ”

MR. PRESIDENT :—“ At any rate, there must be some comprehensive provision.”

SRI K. NATARAJAN :—“ Anyhow, it must not be left to the varying decisions of the courts.

“ With these few remarks, I close my speech.”

MR. PRESIDENT :—“ This is only an academic discussion. Is Mr. Narayana Menon going to speak? ”

SRI M. NARAYANA MENON :—“ Yes, Sir.”

MR. PRESIDENT :—“ The unfortunate thing is that we are lawyers. We are trying to understand everything.”

DR. V. K. JOHN :—“ Being a lawyer is it a trouble, Sir? ”

MR. PRESIDENT :—“ I would not have felt it, had I not been a lawyer.”

SRI M. NARAYANA MENON :—“ Sir, clause 9-A (1) says :

‘ Where a usufructuary mortgage was executed at any time before the 30th September 1947 and the mortgagee is in possession of the property mortgaged to him, the mortgagor shall be entitled to redeem the property, notwithstanding that the time, if any, fixed for redeeming the mortgage has not arrived.’

There is that provision. So that provision will apply to usufructuary mortgage created before the 30th September 1947. I do not know how far the point raised by my hon. Friend, Mr. Natarajan, can be considered. It is better to leave it to the courts.

“ Another point was raised. I do not think it is absolutely correct. In clause 2 (D) there is the definition of the word ‘ Agriculturist ’. The agriculturist ‘ is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof, whether separately registered or not, in respect of which estate, share or portion any sum exceeding five hundred rupees is payable as peshkash ’ Sir, I am speaking about that. That definition is necessary and should be retained. It cannot be altered in any manner as the hon. Member has said. We have to apply the Act of 1937 to debts which were in existence prior to 1937 and also the right to scale down debts. This is all I want to say.”

THE HON. SRI K. MADHAVA MENON :—“ Is Dr. John going to speak? ”

MR. PRESIDENT :—“ I am sure Dr. John is not going to be guided by the wish of the Hon. Minister.”

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* DR. V. K. JOHN :—“ Sir, this Bill was passed by the Assembly and the attitude of the Government is that we should not have any amendments passed by this House. Therefore, there is not much advantage in discussing even the general principles of the Bill.”

THE HON. SRI K. MADHAVA MENON :—“ No amendment has been given.”

DR. V. K. JOHN :—“ Sir, what is the use of giving amendments when we know for certainty that they will not get through. The Government are not prepared to refer any of our amendments to the Assembly. That is the reason for our not giving any amendment.”

MR. PRESIDENT :—“ We always live in hope. Who knows better times will not come? ”

DR. V. K. JOHN :—“ Sir, this is a question which affects the dignity of this House. After all, we are spending our very valuable time here. The attitude of the Government makes me feel that the time I spent here can be spent very usefully elsewhere. And one should not feel that after all the time spent here is a waste. That is the impression sometimes created in the mind of every member on this side. We are perhaps hoping against hope thinking that the Government also will feel our position. After all, a statute has created this House and this House has to function. I do not intend to say this because the Hon. Minister is perhaps surprised that I should stand up and speak on this Bill. Anyway, as you said, let us hope that something better is in store for the future and let us co-operate with the Government not only in this Bill but also in other Bills unless a very serious situation arises.

“ Sir, this Bill contains various provisions, some of which are very, very objectionable. By saying this, I do not mean any ill-will towards the agriculturists. On the other hand, the Opposition is more anxious than the Government to help the poor agriculturists and if any relief can be given to them, it should be given to them. And if we had the power to vote money, we would have certainly spent more money on agriculturists either to relieve them of their debts or to assist them in cultivating their lands. After all, the back bone of this Province and the back bone of the country is the agricultural industry, which is very much neglected. Now, Sir, the question should be looked at from the point of view of an agriculturist

“ Sir, I am disturbed by Mr. Muthuranga Mudaliyar's conversation and unless he finishes it, I am not going to proceed any further.”

MR. PRESIDENT :—“ The hon. Member says that Mr. Muthuranga Mudaliyar is disturbing him.”

DR. V. K. JOHN :—“ Sir, when this Bill was passed in 1938, people who were very sympathetic with the agriculturists felt or

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apprehended that the credit of the agriculturists might go up because the Bill provided that the agriculturist need not pay his just debts. If only the Bill provided that usurious interests need not be paid, it would have been a different matter altogether. The Bill also provided that, debts which under the ordinary law of the land should be repaid, need not be paid at all and the result was, nobody was willing to lend any money to the agriculturists and they were injured by the loss to their credit. That was the dangerous thing because at that time we did not even help the agriculturists by organizing co-operative societies. Sir, when you take away the credit from this important section of the public, viz., the agriculturists who till the land, it is but necessary to provide other sources of credit for them. One way to provide credit is to organize co-operative societies all over the province, provide them with sufficient funds and ask them to lend to agriculturists monies for improving and cultivating their lands and marketing the produce. Nothing or very little has been done so far. Even to-day very little is done by co-operative societies to help agriculturists. Most of them are helping artisans—weavers and others. I must pay a complement to the Registrar of Co-operative Societies who is doing his very best to organize and assist co-operative societies. But up to this time he has not succeeded in organizing and popularising co-operative societies among agriculturists. They have lost their credit facilities from the public and they have no other source from which to obtain credit.

1-15
p.m.

“ Clause 6 of the Bill introduces a new section 9-A in the Madras Agriculturists' Relief Act, 1938. Sub-section (2) of that section says that a mortgagor shall pay to the mortgagee the difference between the principal amount and an amount bearing to the principal amount the same proportion as the period during which the mortgagee has been in possession bears to thirty years. If a property is mortgaged for Rs. 30,000 and 29 years have elapsed, mortgagor need pay only Rs. 1,000 to redeem his property. Sub-section (3) provides that if a mortgagee has been in possession of a mortgaged property for thirty years, the debt shall be deemed to have been discharged. Due to unavoidable reasons I could not be present when the Hon. Minister made a speech in introducing the Bill. But I asked my friend sitting near me whether he explained in detail the number of usufructuary mortgages to which this Bill would apply, the number of mortgages in each district, the amount involved, the term normally outstanding, and the circumstances under which a large majority of the mortgages were executed. I am told he did not give any information on these matters. I can say from experience gained in my profession that a large majority of usufructuary mortgages are executed and lease-backs obtained due to the kindness and sympathy of the creditor.”

MR. PRESIDENT :—“ The hon. Member says that the predominant idea of a creditor in accepting a usufructuary mortgage is to help the debtor. But my experience is entirely different.”

* DR. V. K. JOHN :—“ Agriculturists need money but they do not want to sell away their property. The creditors lend them on

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usufructuary mortgage, as simple mortgage has its own drawbacks. In a majority of cases there is a lease-back. From whom does the agriculturist borrow? He does not go to a sowcar, money-lender or banker, and bankers very rarely help agriculturists. He goes to a friend, a man in the village or near the village and asks him to lend. At times he even puts pressure through friends. The loan may be for performing his daughter's marriage, for assisting another man with a loan or for some other purpose. Generally the amount is Rs. 500, 1,000 or 2,000 and not many many thousands. The friend lends out of sympathy. After some time the money is repaid. I can assure the House that the morality of the agriculturist is very much higher than that of the trader. The agriculturist is anxious to repay his debt. Ordinarily he keeps his word. Even if there is no pro-note or document, he will keep his word and maintain his honour. In a village, if one utters a lie, he will be the target of ridicule. In a court of law the debtor may cheat the creditor as the judge acts on artificial evidence but the villagers know the truth. After some time if an unsecured debt is not repaid, the borrower executes an usufructuary mortgage instead of an outright sale, and the lender executes a lease-back. A hard-hearted creditor can go to a court, file a suit and recover the amount. But a sympathetic creditor takes an usufructuary mortgage and gives a lease-back. What does this Bill provide for? The draftsman of the 1938 Act knew the existence of usufructuary mortgages."

MR. PRESIDENT:—"I may just inform the hon. Member what the Hon. Minister said in this connexion. Usufructuary mortgages also would have been included in the 1938 Act but for the difficulty in finding out the rate of interest. In some usufructuary mortgages, the rate of interest was not stipulated. So it was not possible to find out how much had been paid to the mortgagee. Even in such cases the Hon. Minister thinks that the thirty-year period provided in the Bill is so ample that within that period the mortgagee could have realized double the mortgage amount from the income derived from the property. This follows more or less the *Damdapat* principle adumbrated in the 1938 Act."

DR. V. K. JOHN:—"I am obliged to you, Sir. But all this is thinking in the air. Have statistics been collected? Are the Government who are spending thirty crores on Government servants unable to get statistics for them to act upon? Could they not have made an investigation of usufructuary mortgages at least in one thousand or one hundred villages and placed the result on the table of this House? The Collectors should be able to collect all instances of usufructuary mortgages among agriculturists. The Minister thinks that he will win a lot of popularity by bringing in a measure of this sort. He does not know how much unpopularity such a measure creates. But I am not on the question of popularity or unpopularity; it is the concern of the Government. But I am on this point. The Government are proceeding on

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pure imagination, without any basis or statistics whatsoever. They destroy the credit of the agriculturists without providing alternative sources of credit. I want the Government to be more sympathetic to the agriculturists. When they are spending 17 crores on intermediaries like the zamindars, why should they not spend at least 5 crores to relieve agricultural indebtedness? Provide co-operative societies with sufficient funds even on the assumption that the money is lost and ask them to assist agriculturists. After all, the money is not lost. It is spent on poor and deserving agriculturists. After these two pieces of legislation, one in 1938 and the other in 1948 for reducing debt in some cases and wiping it out in other cases, does the Hon. Minister think that any one in this province will hereafter lend to agriculturists? What is the idea in applying one rule to everybody? There may be a kind man who has taken an usufructuary mortgage at a very low rate of interest"

MR. PRESIDENT :—"Is the Hon. Member likely to finish in a few minutes?"

DR. V. K. JOHN :—"I would require more than a few minutes."

MR. PRESIDENT :—"The hon. Member can continue after lunch."

(After lunch—2-30 p.m.)

* DR. V. K. JOHN :—"Mr. President, before we adjourned for lunch, I was on the question whether co-operative credit societies have been organized and whether they are functioning properly in the villages which will be affected by this Bill and if the Government have not done that, they will be doing a very great injury to the agriculturists. What now happens is, this Bill takes away the right of the creditor to collect his debt from the agriculturist who is a debtor and whose credit will be lost. But still he must get on and he will have to go and borrow where he can get credit. Sir, you have some idea of the way in which money-lenders lend money in villages. The interest is taken in advance. Usurious interest is charged and very often double bonds are also taken, so that if you want Rs. 50, you will have to execute a bond for Rs. 100, and what you will get, Sir, will be capital *minus* interest taken in advance for a year or two or even three years in accordance with the whims and fancies of these money-lenders.

"Now, Sir, the effect of this legislation will be that the agricultural population who are always in need of money will be driven into the hands of these village money-lenders. This is a Bill which gives every encouragement to the money-lender and every discouragement to the agriculturist, whom, *prima facie* it seeks to assist.

"Sir, it is this aspect of the question that has been entirely lost sight of by the Government who have brought forward this

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Bill, of course, with the laudable object of assisting the agriculturists. I submit, Sir, that a definite result of this measure will be that it will not assist the agriculturist, but on the other hand it will only drag him into the hands of the money-lender who will take everything in advance, and nothing will remain and he will also take away his movables as his security. If the wife of the agriculturist has any jewels on her person, or any utensils in her house, those too will go to the money-lender, because the agriculturist has been left with no other credit, and therefore he will necessarily have to pledge these things and raise money to meet his demands. We have touched his bonds by the original Act and now we are trying to touch his security on immovable properties by means of this legislation. What else will remain? If, as I said, there are any ornaments in the person of the women in his house, those will also be pledged, if he wants a little money and they will also be lost. Sir, has the Hon. Minister for Agriculture considered for one moment what the effect of this legislation would be on the agricultural population who are always in need and who are always indebted? Sir, that is one aspect of the effect of this measure. This Bill defeats its very purpose.

“ Sir, the other aspect is this. It destroys the village economy. After all the villagers know how to manage their affairs very much better than we lawyers and Ministers in towns and cities. (The Hon. Sri K. Madhava Menon : ‘hear, hear.’) Left to themselves, they can manage their affairs much better. If they mortgage certain properties on usufructuary mortgage, they will do in accordance with the custom and usage prevailing in the village and after consulting the opinion of the villagers. It is only the money-lender who goes into the village that will create a lot of havoc and destroy the village economy, but villagers, if they transact between themselves, will not ruin their neighbours because that will be against the healthy public opinion in the village. Now what about the man who lends money on a usufructuary mortgage and who depends for his income from the usufruct? What will he do for meeting his own expenses, and the expenses of his family? How is he to meet the expenditure for the education of his children? He might entirely depend upon the rent from the lease of the property which he has taken under usufructuary mortgage. Now the Hon. Minister says, ‘Let no man receive any more rent from the lease and let the whole capital on the usufructuary mortgage be wiped out.’ Now I say that this Bill will destroy the village economy to an extent that we in this House cannot imagine. That would be the direct result of this Bill. (Interruption.)

“ Then Sir, I want to say that after this Government came into power, they have by various acts and by various pieces of hasty legislation put into disruption various industries in this Province by their policy of nationalization. They have frightened individuals and frightened private investors who employ a large number of people, by threat of expropriation of their property. For sometime they wisely did not do anything to disturb the agricultural industry and agricultural economy in this Province. But

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now they have brought forward two Bills affecting the agriculturists even. One is the Zamindari Abolition Bill and the other, the Agriculturists' Debt Relief (Amendment) Bill, both of which are going to destroy village economy. Sir, the more these Bills are rushed through the Legislature, the more they will destroy the agricultural economy of the Province and ruin tens of thousands of people who have lent money, not on usurious rate of interest but on very moderate and reasonable rate of interest on usufructuary mortgages and who live on the rent received from the lease of the property. This is a Bill which no popular Ministry should have introduced. What should they do, if they really want to help the agriculturists and to extricate them from the clutches of the money-lenders? I submit, Sir, that instead of bringing forward a measure like this, they should make some provision in law, whereby the agriculturist debtor who has given his property under a usufructuary mortgage could petition to the court to investigate the circumstances attending the mortgage and have the interest reduced if it was more than 5 per cent, and the interest paid in excess without limitation of time adjusted towards the principal. If that were done—and it is a very simple thing indeed—nobody would have suffered, except people who have advanced money at more than 5 per cent interest and that is an investigation which any court of law can be asked to make. It would not touch the poor people who lent money at a moderate and reasonable rate of interest to a friend, and whose budget depends upon their income from the property under the usufructuary mortgage. How many persons will be ruined by this measure? The Hon. Minister has not taken the trouble to estimate the amount involved, nor has he supplied this House or the other House with any figures or statistics in respect of the property or the number of cases affected by this measure.

“Now Sir, under the old Agriculturists Debt Relief Act, courts are asked to make various investigations, not on a suit, but merely on a petition. The courts will have to enquire whether a person claiming to be an agriculturist comes within the definition of the term agriculturist, because he alone is protected under that Act. Then they have to enquire into the question of the rate of interest. They are asked to make many inquiries and these inquiries have been made in terms of thousands of cases on mere petitions. Now Sir, is it difficult to provide for another inquiry like that to be made by the court on the usufructuary mortgages, where the interest charged is more than 5 per cent? In cases where the rate of interest is not mentioned, they can take into account the rent which is provided for under the lease deed and calculate on that basis, and if there is any overpayment, the excess may be taken in reduction of the principal, without limitation of time. Cannot such a simple thing be done instead of making this cumbersome provision in a separate amending Bill like this? Is it just and reasonable that a legislature sitting at Madras should upset the village economy by measures of this type? Sir, this is a thoughtless Bill, brought forward by the Ministry and they are seeking to pass

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this measure, with the majority they have behind them. They have nobody to advise them on these technical matters and they do not know what consequences would follow therefrom. We know from experience that there are many instances where usufructuary mortgages have been entered into, wherein both the principal and interest are paid in the course of years—sometimes for 40 and 50 years. Even such cases will be affected by this Bill. All cases, whether good, bad or indifferent are being treated in the same way and no distinction is made between day and night, between a good mortgagee and a bad mortgagee, between a man who charges a reasonable interest and a man who charges usurious rate of interest. No difference is made between all these cases. The Government want to treat all cases alike and to them every man is the same, whether he is a good agriculturist or whether he is a blood-sucker or a usurious money-lender. I say, Sir, that this Bill seeks to ruin thousands of people who have been helping these agriculturists and ryots from the clutches of the usurious money-lenders.

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P.m.

“Will anybody help them hereafter except on the security of gold which is in the possession of the ladies of the House and on usurious interest? What are the Government doing? I say, Sir, that this is a thoughtless piece of legislation which the Hon. Minister without thinking of his prestige must take back. At least as regards the usufructuary mortgages he must not have this legislation pass through this House. There cannot be any question of prestige when the agricultural economy of this province is concerned. I do not want to speak anything more, Sir, because these criticisms even on general principles are not received as honest criticisms coming from somebody who takes a different point of view. I must however say this, Sir. This is a matter where we are depending upon your good offices. I take the full responsibility, Sir, when I say this. After what happened yesterday when we decided not to take further part in the discussion of the Abolition of the Zamindaris' Bill, until a Bill is brought in to amend the Bill in order to keep up the prestige of this House as it was promised by the Hon. Minister, the Opposition will not even discuss the general principles of any Bill; not only they will not bring in amendments but they will not even discuss the general principles of Bills. We shall wait for a reasonable time. These Bills are supposed to have been carried through the other House and they are brought in here to be carried without any amendments so that they may appear to have been passed. To-day I take part in discussing the general principles of this Bill, but after that period is passed, you will see that no Bill will even be touched by the Opposition either for amendments or for general discussion. I give this warning, Sir, and I want your good offices because I am feeling on that . . .”

MR. PRESIDENT:—“I am sure the hon. Member would have had my good offices if he had said it yesterday. The Hon. Minister said, I believe, that the only reason was that the Bill would be delayed.”

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DR. V. K. JOHN :—“ It shows, Sir, that one cannot move any amendment at all here.”

MR. PRESIDENT :—“ I understood the Hon. Minister to say that he did not like the major portion of the work to be delayed just for the sake of this and that he would bring in an amending Bill as soon as convenient. That should have put the humour back.”

DR. V. K. JOHN :—“ I would have waited for that Bill. But that was a point, Sir, on which we felt and we still feel very much and sincerely. The Government should understand that. It may be that they would like to have no opposition at all so that their Bills might be passed in this House without any amendment and in one minute. There will then be no difficulty at all for them. After all, you must know, Sir, with what painful feeling we decided yesterday not to have anything more to do with that Bill. It was because we felt that no amendment could pass through. If that is the situation, Sir, these Bills will never be touched. I have tried to assist the Government with criticisms which I have sincerely offered and I have given these criticisms in all earnestness and in the interests of the agricultural population of this Province.”

* THE HON. DR. T. S. S. RAJAN :—“ Sir, I would like to know whether the Hon. Leader of the Opposition would always insist on our accepting all his amendments or propositions. This is a House of Legislature, Sir, in which we go by a majority vote and get our Bills passed if we have a majority. The Leader of the Opposition cannot justly complain over this. In fact what was done yesterday was nothing unusual. I believe, Sir, the Hon. Minister for Revenue went out of his way in promising to bring in a Bill in order to placate the Opposition. It is not our desire, Sir, to carry out things against the Opposition. We just want time to consider the matter. We accept their criticism and give them the best consideration possible. It is only on these grounds the Hon. Minister made that statement and if it does not please the Leader of the Opposition we cannot help it. Therefore we proceeded with the Bill. Whether it is a threat not at all to co-operate or to non-co-operate or to compel the Government to do what they like, it is out of the question because this is a House of the Legislature where we go by voice. As long as the votes are in favour of our proposition the Leader of the Opposition cannot justly complain. They have had time to say what they had to say and the Leader of the Opposition had his supporters to say what they wanted and they also voted. All these things have been gone through properly and regularly and I do not see where all this grouse comes from.”

DR. V. K. JOHN :—“ There is no grouse.”

MR. PRESIDENT :—“ All these discussions are not germane to the subject under discussion.”

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* THE HON. SRI K. MADHAVA MENON :—“Certainly, Sir, these are not germane to the subject under discussion. But there are some things which Dr. John said which require an answer. Dr. John was rather angry and impatient and when a person gets impatient and angry he does certain things”

MR. PRESIDENT :—“I may just tell this to the Government. Perhaps what was in the mind of the Opposition was this. Yesterday's amendment was in the nature of an amendment trying to keep the powers of this House. In fact the House was forced to vote on the amendment that this House shall have certain powers to approve the rules. The net result of the voting was that the House voted saying that this House need not have that power. That is a point which deserves consideration by the Government. Dr. John also took me by surprise after the voting when he stated that they were not going to co-operate. If that was his attitude he might have given me some information about it in advance and my views also might have been there to prevent such a contingency. I think this is a matter which need not be discussed further. The Hon. Minister may go on.”

* THE HON. SRI K. MADHAVA MENON :—“I will not discuss it further Sir, but it is hard for you to ask me not to refer to it at all because I want to refer to certain things and I shall”

MR. PRESIDENT :—“I will certainly not be in your way”

* THE HON. SRI K. MADHAVA MENON :—“I do not want to cause any bitterness of feeling. If Dr. John will excuse me, Sir, I shall say this. When some mud is slung something sticks to our cloth unless we wash it away. Like that if something is said which is not true I must try in the best way possible to wash the things that have been said. So I shall try, Sir, not to be irrelevant”

MR. PRESIDENT :—“The Hon. Minister should try to be as non-provocative as possible.”

* THE HON. SRI K. MADHAVA MENON :—“Dr. John was rather impatient to-day, Sir. It was not that I was not attending. I was whispering a word to Dr. Rajan. Dr. John for the moment lost his temper and that is why this outburst, Sir, if I may use that word. He charges us saying that this Bill is a thoughtless Bill and that it was thoughtlessly done. I must say that what he did was a little thoughtless. He was indulging in giving us a warning that this is going to be the end and asked us to beware of our fate. All these things were the result of a little impatience on the part of Dr. John. You also remarked, Sir, yesterday that the House might adopt the rules by a resolution and that was the last straw on which the Opposition wanted, if I may say so, to show their protest. I want to quote the exact words used by the Hon. the Revenue Minister, Sir. He said : ‘I shall undertake that

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no rule under this section shall be passed or brought into force by the other House without being brought to this House. This Bill may not be kept pending because of that.' Was that want of respect, Sir? Only in order to meet certain exigencies, Sir, he suggested this. If Dr. John had the patience he would not have done like this. Dr. John says, Sir, that he has not moved any amendment to this Bill, which was here for days together. It was sent to them long ago and it was here much before the incident took place. Evidently Dr. John did not then go through the Bill at all or he did not want to say anything. I shall now address myself to the general discussion that we had about this Bill, Sir.

If I understand Dr. John correctly, Sir, he is accusing me for the original sin and not for the present sin, namely, the 1938 Act. If I have understood his arguments correctly, he says that it has completely shattered the credit of the agriculturists and 'hat when we are amending that Act, we are shattering the credit of the agriculturist worse. The charge is against the original sin and not against the present. Dr. John was asking me for statistics, Sir. May I suggest to Dr. John, Sir, to read Dr. B. V. Narayana-swami Naidu's Report, which is a published report, made after the Agriculturists' Relief Act was in existence for over ten years? To find out as to how far the agriculturists did not get loans after the last Act was passed, I leave it to him to read Dr. Narayana-swami Naidu's report. The facts and statistics are there. As usual Dr. John began with the uselessness and impotency of this House and that no amendments will be accepted and stated that was why they were not moving any amendment. When Dr. John says that, I am not surprised, Sir. I can only say that I shall not be surprised at anything that Dr. John does in the House, after my experience of yesterday. As Leader of the Opposition, Sir, I have found him expressing opinions which are just the reverse of those of other Members of his Party. He has been expressing opinions here just contradicting what he perhaps said in statements in the Press. (Interruption.) If he is not surprised with what the Government do, the Government are not surprised with what Dr. John does. It is my only answer to him. What he says about this Bill is this. I don't know whether I have correctly noted. (Interruption.) That was exactly what the Leader of the Opposition did. He did not speak about the Bill. He spoke about other things which I have to answer. That is my unfortunate position. He said: 'The Opposition is most anxious—I am quoting him, Sir—to support the poor agriculturists. The only anxiety of the Opposition is that the credit of the agriculturist was not lost.' You will see the wonderful sympathy for the poor agriculturists, Sir, of the Opposition party. The Leader of the United Democratic Party has shown his sympathy in his speech. He says that the agriculturists are given loans by the creditors out of sympathy and love, not because they want to earn interest on their capital. And therefore he is saying that we must have more sympathy to the creditors. The Opposition's idea of the agriculturists and their creditors is that the creditor is having an overflowing love to the debtor and he is advancing money to the debtor

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out of his overflowing love. Woe to that country and to the Opposition and the Party whose sympathy for the agriculturists is like that. I am sure, Sir, the agriculturists will not thank the Opposition for this sort of sympathy."

DR. V. K. JOHN :—" I never said anything like that. That is why I said the Minister was not attentive. I only said in some cases"

THE HON. SRI K. MADHAVA MENON :—" I am not yielding, Sir. I have noted what my Friend stated. He said : The creditor feeling sympathy with the debtor preferred a mortgage instead of a sale and gave it back to him. These are the exact words, Sir, that Dr. John used. I have noted them down when he was speaking about these usufructuary mortgages"

MR. PRESIDENT :—" That shows you were not at all inattentive."

THE HON. SRI K. MADHAVA MENON :—" I leave it to you, Sir, and to others to judge whether I have been inattentive."

MR. PRESIDENT :—" He probably meant some creditors."

3 p.m

THE HON. SRI K. MADHAVA MENON :—" Sir, you were kind enough to help him with the word 'some'."

MR. PRESIDENT :—" He says now that he said only 'some'. I think he said something like that."

* THE HON. SRI K. MADHAVA MENON :—" I want to clear away the misunderstanding. A sort of security for usufructuary mortgages is provided in the old Act of 1937 also. But, Sir, Dr. John said that we are doing all this in an inefficient manner and wanted us to take his advice. Sir, I am obliged for his very efficient advice. He said that in the original Act, it was not provided for. But, Sir, I say it is a very big mistake. Usufructuary mortgages were included in the original Act. Only one class of usufructuary mortgages were not included. May I remind him about section 10 of that Act? I am reading section 10 of the old Act which was much commented upon."

MR. PRESIDENT :—" I do not think the Leader of the Opposition denies."

* THE HON. SRI K. MADHAVA MENON :—" He was not aware of it. Otherwise he would not have made those remarks."

DR. V. K. JOHN :—" If it is so, why this amendment? I was only speaking of the amendment of the Act."

* THE HON. SRI K. MADHAVA MENON :—" Now, Sir, section 10 of the old Act says : ' The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October 1937, hold an interest in, or a lease or sub-lease of, any land as specified in that section.' Again, it says, ' Nothing contained in sections 8 and 9 shall affect any mortgage by virtue of which the mortgagee is in possession of

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the property mortgaged, where no rate of interest is stipulated as due to the mortgagee.' Sir, there are hundreds and thousands of usufructuary mortgages going on in this Presidency. Perhaps some of them have come to the notice of my hon. Friend also, where the interest has been provided in the usufructuary mortgage so that he may understand that there is no particular sanctity about usufructuary mortgages. As I said, where the interest was not provided, there was the practical difficulty of finding out whether double the amount has been paid by way of interest or not. But, Sir, it was given to the hon. the Leader of the Opposition to give us the advice. He said, take this advice; anything paid over 5 per cent should go towards the principal. That is what the Leader of the Opposition has advised. Sir, it is a very valuable advice! Of course it will give a great benefit to the man who has taken money on usufructuary mortgages. But, Sir, suppose there is a usufructuary mortgage for thirty years. Suppose, Sir, the property is a coconut garden. Whether it was 5 per cent or even less, you have to take what the price of coconut was 30 years ago, and then at the rate of 5 per cent of the interest, you have to work it up. If you do so, you will find that the suggestion proves to be an impossibility. Therefore, Sir, according to the suggestion of Dr. John, the remedy is much worse than the disease. If my Bill can be considered a disease, the remedy is much worse. If the authors of this Bill have been thoughtless and the suggestion of the Hon. the Leader of the Opposition is that they have not bestowed sufficient thought—I can say they have not been so thoughtless as the person who has made such a suggestion.

“Again, Sir, Dr. John said, you are going against all standards of morality; you ask the man who has taken money not to pay; you are acting against all standards of morality. Sir, to some extent, it is true to say that he is not paying the money. But, only under certain conditions, he need not pay the amount. Even in international obligations, under certain conditions, the debts are not repaid. For instance, according to the Lausanne Treaty, England, France and other countries who have borrowed from America did not pay the debts because according to the Lausanne Treaty, there was a general agreement. The result was ‘Cash and carry’ policy had to be followed later on. So, Sir, in these matters, international precedents are there. Under certain drastic conditions, we have said, take this much and not more. That is what has been done in this amending Bill.

“Sir, arguments have been advanced against me about the standards of morality. Sir, we have only said, you should not take unduly and that you should take only a reasonable amount. Then, Sir, Dr. John said that the Minister was thinking in the air. When he said that, I was really thinking on facts and not in the air. On the other hand, his talk was more in the air.

“Then, Sir, he said that the Minister cannot gain popularity because, no man will pay money to the agriculturist hereafter. That is another charge, Sir, which he made. Sir, after all, if I can

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gain any popularity, it should be by passing a measure which people like. Why should he grudge it if I get a little bit of popularity on that account? Sir, I can gain popularity only if the measure does good to the people and not by a speech in the House. I think this measure will be certainly popular; otherwise, there is no meaning in charging that I want to gain popularity. The other argument was that nobody will pay any money to the agriculturist hereafter. If only my hon. Friend will read Dr. B. V. Narayana-swami Nayudu's report published two years ago, he will understand that the agriculturist debt has increased subsequent to the Act and there is no dearth of money for the agriculturist for getting his loan. As I said before, Sir, except in section 9-A, in almost all other sections, there are only corrections of certain mistakes that have crept in owing to a different interpretation of the original Act. For instance, in 53 Law Weekly, M.L.J., there was a mistake pointed out. A father got a promissory note executed in the name of the son and after the passing of this Act, for the interest on the promissory note, another promissory note was prepared in the name of the son. The High Court says that under the said Act, it must be in the name of the same creditor and not a different creditor. Otherwise, it is not part of the interest which could be adjusted towards interest. That was the mistake pointed out and we have corrected that mistake in the present Bill. Therefore, except in section 9-A, in all other sections, the amendments are corrections to the previous Act and these amendments are brought simply to make the intention more clear. Therefore, Sir, these amendments are not such as would kill all sorts of agricultural credit in this Province. The hon. Member said that hereafter there will be no agriculture in this country. There need be no such fear because the Act is intended to help the poor agriculturists.

"Then, Sir, the hon. the Leader of the Opposition asked whether there are any statistics prepared with regard to the agricultural credit in this Province and the persons who will be affected by this Bill. Sir, I will put a similar question to him in return whether he can furnish statistics of persons who will be benefited by this Bill. Here is a Bill which is welcomed in every quarter and especially by the poor man. I am sure the Hon. the Leader of the Opposition, Dr. John, cannot understand it because he must have never been a borrower. It is only the borrower that can understand the difficulty of being a debtor. The same thing will apply here.

"Sir, the other thing he said was that this Bill will drive the agriculturists to money-lenders and so on. Another thing which he said was that the villagers know better than lawyers. I entirely agree with him that the villagers know much better than lawyers. They understood the necessity of this amendment in spite of the fact that lawyers have been opposing it tooth and nail saying that it is all against principles of sanctity of contract. Sir, we have studied the conditions of the agriculturists and we feel that most certainly on this amending Bill, the villagers know better than the lawyers."

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DR. V. K. JOHN :—" I said lawyers and Ministers."

* THE HON. SRI K. MADHAVA MENON :—" I accept the amendment, Sir, that villagers know better than the lawyers and even the Ministers. That is why the Ministers have taken up this legislation even though lawyers, however eminent they may be, were opposing such a beneficial measure.

" Then, Sir, another criticism was that after this Government came, they have frightened the industry and he gave as an instance, the nationalization of transport and the Zamindari Abolition Bill, though they are not germane to the present Bill. Sir, whether we have frightened industry or not, the industry has now frightened the Hon. the Leader of the Opposition because a nationalized industry is not to his liking. He does not like nationalization of transport; he does not like nationalization of anything because he is having a sort of obsession. If I dislike I think everybody else also should dislike. It is a sort of obsession which I am liable to. Sir, the Leader of the Opposition is suffering under an obsession. I have got an obsession that this Act will benefit the poor agriculturist because the debt which he is groaning under is too much for him. Therefore, Sir, there is this difference in outlook which cannot be helped.

" Lastly, Sir, Dr. John said that a popular Minister should not have done this thing because in the original Act itself it is said that it will not apply to usufructuary mortgages. But, Sir, I can show a dozen cases of such mortgages where interest has been specifically fixed as 10 or 11 or 12 per cent. Then there are cases of usufructuary mortgages where the property is leased and the rent is paid for the interest. In such a case, this Act must apply. What is wrong in applying this Act to such cases? Therefore, Sir, it is wrong to say that it is opposed to the original Act. If there is anything wrong even with the original Act, then I cannot help it.

" Then, Sir, Dr. John said that the Minister does not seem to recognize the distinction between day and night. Sir, I say sometimes people lose their temper and they do not really understand the distinction between a day and a night. I have nothing more to say except to state that nothing was mentioned about any of the sections of this Bill except section 9-A. There was only a general attack and a general criticism not pertaining to the present Act. Finally, I may again remind my hon. Friend that usufructuary mortgages were dealt with in the original Act and it was a mistake on the part of my hon. Friend to have said that they were absolutely excluded. I hope he will realize that it is not so. With these words, Sir, I move that the Bill be taken into consideration at once."

MR. PRESIDENT :—" The question is—

'that a Bill further to amend the Madras Agriculturists' Relief Act, 1938 (L.A. Bill No. 4 of 1948) as passed by the Assembly be taken into consideration at once.'"

The motion was put and carried.

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p.m.

Clauses 2 to 16 and 1, and the Preamble were put one by one and carried.

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I move that the Bill be passed into law. I do not wish to say much now. I must thank the House for the kindness with which it has . . .”

DR. V. K. JOHN :—“ Wait and see.”

* THE HON. SRI K. MADHAVA MENON :—“ My hon. friend says, let us wait and see. So I shall wait and see.”

DR. V. K. JOHN :—“ Sir, I take this opportunity, in the third reading stage of the Bill, to say a few words. The Hon. Minister stated that there was no serious amendment in this Bill, except clause 9-A. I criticized only that amendment, but did not touch others. Two points I have already made, and these I want the Hon. Minister and the Government to remember.

“ The first point I made was that the agriculturists must be supplied enough credit through co-operative credit societies, which it is the duty of the Government to establish, in order to help the ryots, whose credit might be shaken, by a Bill of this nature.

“ The next point I made was this. Why should all mortgages be considered on the same footing? The Hon. Minister stated that there are about thousands and thousands of mortgages. Could not the Government find out a formula which would not do injustice to a very large number of mortgagees who possess lands under usufructuary mortgages? I suggested a formula myself. Mortgagees who did not charge too much by way of interest or rent, when they give back the land, need not at all be brought within the scope of this legislation. Only persons who charged a rate of interest more than is reasonable need be touched. Why not give an opportunity to a Court of Law to investigate the circumstances of a particular case on its own merits? I suggested, Sir, that each case might be examined on its own merits.

“ The Hon. Minister did not reply to any of these points, but chose to introduce personalities into the discussion, and thus brought down the level of the discussion. On the other hand, I kept the discussion at a very high level, and talked only about the Bill, and made my criticisms of the same, whereas the Minister has not cared to do so. I do not want to go into the same controversy once again, but shall choose to keep the level of the discussion high, and so shall content myself with offering these suggestions.”

SRI B. NARAYANASWAMI NAYUDU :—“ Mr. President, Sir, a reference has been made to international matters, and it is that which has prompted me to speak on this occasion. The Hon. Minister stated something about the Lausanne agreement. That was the first agreement under which money was lent by America to Mr. Baldwin at a high rate of per cent (at about 5 per cent). The effect of that arrangement was that during the second world war, the creditor said : ‘ During the first world war I gave the money; and you didn't repay. So, I won't give you

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any goods, unless there is to be followed the policy of "cash and carry". The Hon. Minister stated some things, either without knowing them, or with a view intentionally to mislead the House. America stated 'cash and carry', and that is exactly what the Leader of the Opposition stated. When the second world war developed, the creditor said: 'I shall give you loan, but only on the policy of "lease and lend."'. If international standards are to be any guide for us here, the highest morality has to prevail with regard to these usufructuary mortgages. Are the obligations under these usufructuary mortgages to be wiped off, according to these international standards? I submit, Sir, they ought to be honoured, and the Government should have said that the best will be done with regard to these obligations. The rates of interest should not have been cut, because the money market would become closed. I have risen on this occasion to speak on the subject because there is no use of referring slyly and darkly to international things, as though they happened in a quite different way. If international morality were to prevail here, then the Bill before us ought to go away.

"Sir, a plain question was put to the Hon. Minister to give some statistics regarding the number of mortgages that will come within the scope of this Bill, the rates of interest involved, the relief sought to be given, etc. The Hon. Minister took some half an hour, but yet did not give us any figures at all. He only made some allegations, counter-allegations, and imported some prejudices and counter-prejudices into his speech. I ask, Sir, are we in a polling booth or in a Legislature? I do not mind whether the amendments are carried or not. But what I want is that the Government should at least for the sake of courtesy own the correctness of something which is true, though they may not care to accept any of our amendments. The Government have not even cared to see and go into the amendments which the Opposition has tabled. I submit, that good things should not be thrown out. We cannot function as an Opposition unless we have what may be called a sincere hope that if the Hon. Minister feels that what is being stated is correct he will have the courage to say that it is correct, whether that is carried or not. Sir, when I address the hon. Members of this House, I feel I am not addressing the members of the Treasury Benches at all. The Hon. Minister and the members of the Treasury Benches seem to think that it is their privilege to differ and heckle in all these things. It is nothing short of arrogance. My only submission therefore is this. If any Hon. Minister feels that a certain thing is right, let him please have the courtesy at least to own it, whether it is passed or not."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"Mr. President, Sir, no more speeches are wanted now. But I would only like to elucidate certain facts from the Hon. Minister. The question raised by the Leader of the Opposition and my hon. friend Mr. Narayanaswami Naidu is that no statistics have been given by the Hon. Minister."

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MR. PRESIDENT :—“ The hon. Member need not repeat those points now. ”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, I would only like to stress that point. ”

MR. PRESIDENT :—“ That point has been stressed sufficiently. If the hon. Member has any other point, let him speak by all means. ”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I do not want to stress any other point, Sir, but only this, namely, that no statistics have been given by the Hon. Minister. ”

* THE HON. SRI K. MADHAVA MENON :—“ I am sorry, Sir, that my hon. friend Mr. Narayanaswami Naidu who made a very vehement speech just now, is not here to hear what I have to say. Dr. John stated that we are taking away all standards of morality by asking people not to pay. I only said that that has been done in certain emergencies, as in the case of the Lausanne agreement. I did not hide the fact that the consequence of it later on was that America said : ‘ cash and carry ’. So, exactly what Mr. Narayanaswami Naidu stated, I stated myself. It was therefore very wrong on his part to have said that I have hidden something and tried to insinuate something else. Really it is very unfair to accuse me of trying to insinuate things, because I have openly said what the result was. ”

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p.m.

“ Sir, this Bill came here for the first reading when a motion was moved for the appointment of a Joint Select Committee. The Hon. the Leader of the Opposition and Mr. Narayanaswami Naidu were here. They could have pointed out the defects in the Bill and all those points would have been considered by the Select Committee. That was the time for a discussion of the general principles of the Bill. But nothing was mentioned. ”

DR. V. K. JOHN :—“ On a point of order. When the Bill is in the lower House the resolution for a Joint Select Committee is made here. We have to discuss the general principles only when the Bill comes up here after it has been passed by the lower House. We need not discuss the general principles at the time when we nominate members for the Joint Select Committee. ”

MR. PRESIDENT :—“ It is open to the hon. Members to discuss the general principles at the time of the appointment of members to the Joint Select Committee. The Hon. Minister says that if that had been done, the Select Committee would have considered the points. ”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, the resolution that was moved was that this House concurs in the appointment of a Joint Select Committee for the purpose of considering the Agriculturists' Relief (Amendment) Bill. That was the time when the Bill should have been considered by this House and necessary instructions given to the Joint Select Committee. ”

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MR. PRESIDENT :—" I do not think you will go so far as to say that the House ought not to discuss the general principles now."

* THE HON. SRI K. MADHAVA MENON :—" Not at all, Sir. But they are now asking for figures. They cannot ask me for figures at this stage. Sir, my hon. Friend said that he has lost hope in this House. I say, Sir, I have lost hope in him. Dr. John said that it was beneath his dignity. I also feel that it is beneath my dignity to reply to some of these things."

DR. V. K. JOHN :—" What about rule 105? "

MR. PRESIDENT :—" When the motion for the appointment of a Joint Select Committee is before the House, is it not open to the House to say that they do not agree with the general principles of the Bill and therefore would not agree to appoint members to the Joint Select Committee? "

DR. V. K. JOHN :—" No Sir. The general principles are not to be discussed at that stage. The stage at which the general principles can be discussed is after the Bill has been passed by the other House and introduced in this House."

MR. PRESIDENT :—" The only point which the Hon. Minister has raised is that if the Opposition had made these points clear at the time when the motion for the appointment of a Joint Select Committee was made, it would have helped the discussions in the Select Committee. There is no question of anybody being prohibited from discussing the general principles at this stage. When the motion for the appointment of a Joint Select Committee is made, I do not think anybody is prevented from saying, 'I do not agree with the general principles of the Bill and a Select Committee need not be appointed at all.' I do not agree with the view that the House cannot say that at that stage."

The question that the Bill be passed into law was put and carried.

(7) THE MADRAS PUBLIC LIBRARIES BILL, 1947
(L.A. BILL No. 9 OF 1948).

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—" Sir, I move—

'That the Madras Public Libraries Bill, 1947 (L.A. Bill No. 9 of 1948) as passed by the Legislative Assembly be taken into consideration.'

" It is unnecessary for me to expatiate upon the need for the establishment of a good library system throughout the Province. The libraries are the single biggest agency for adult education in any country in the world. Libraries are of various kinds. They may be of the ordinary sort which serve the ordinary man and woman. They may be also of a highly technical nature serving the specialized profession like engineers and medical men. Apart